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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,298	02/20/2004	Eli Pinchassi Dar	371.1007	7817
21831 7590 04/23/2007 WOLF BLOCK SCHORR AND SOLIS-COHEN LLP 250 PARK AVENUE NEW YORK, NY 10177			EXAMINER REYNOLDS, STEVEN ALAN	
			ART UNIT	PAPER NUMBER
			3728	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/23/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/783,298

Applicant(s)

PINCHASSI DAR ET AL.

Examiner

Steven Reynolds

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-8,12 and 14-33 is/are rejected.
- 7) ☒ Claim(s) 5,9-11,13 and 34-37 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities: On page 6, line 16, "**FIG.**" should be written "**FIG. 1**".

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 6-8, 12, 14-21, 23-30, 32 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Clements et al. (US 4,905,819). Regarding claims 1-3, Clements et al. discloses a storage device for storing contact lenses and contact lens solution, comprising a case (10) defining a reservoir for contact lens solution and a pair of contact lens retaining compartments (18 and 20) for retaining contact lenses, said case including stream generating means (solution flows from tube 60 to distributor head 26) for causing a stream of contact lens solution to flow from said reservoir to an exterior of said case and filling means (solution flows through orifices 30 and 32 into compartments 18 and 20) for causing the contact lens solution to flow from said reservoir into said compartments; and closure means (lid 36) removably attachable to

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said case for covering an exposed portion of said stream generating means through which the stream of contact lens solution flows; said case includes an upper housing member (12) defining said compartments and a lower housing member (62) attached to said upper housing member, said reservoir being defined between said upper and lower housing members; and said upper housing member includes a reservoir covering section (bottom surface of bore 70) attached to said lower housing member to form said reservoir therebetween and a cover section (36) pivotally connected to the reservoir covering section, said compartments being defined in said reservoir covering section.

Regarding claim 6-8 and 12, Clements et al. discloses said case further comprises covers (384 and 386) pivotally connected to said reservoir covering section to selectively cover said compartments; said reservoir covering section includes a mounting bracket (hinge) alongside each of said compartment for mounting said covers, each of said mounting brackets including a pair of projections separated by a cavity communicating with a respective one of said compartments with an aperture (at 158 and 160 – See Fig. 8 embodiment) being formed at a bottom of each of said cavities, said reservoir covering section further including a channel (150) communicating with each of said apertures and a pressure application zone; said filling means comprise a pair of valves (166) each associated with a respective one of said compartments, each of said valves having an inlet opening situated in said reservoir and an outlet opening, each of said channels being arranged in the outlet opening of a respective one of said valves; and a part of each of said covers is arranged in a respective one of said cavities

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and is pivotable to block said channels when in a closed position and allow flow through said cavities when in an open position.

Regarding claim 14, Clements et al. discloses said closure means comprise means for preventing flow of contact lens solution from said reservoir when said closure means are attached to said case (rings 42 and 44, as well as cavity 52 prevent fluid flow while lid is attached to case).

Regarding claims 15-21, Clements et al. discloses said exposed portion (26) of said stream generating means comprise a flow nipple arranged on said case, said nipple having a tip with an aperture (30,32) formed therein through which streams of contact lens solution stored in said reservoir flow to an exterior of said case when said closure means are detached from said case; said nipple is detachable from said case to enable refilling of said reservoir (entire upper housing 12, which includes said nipple, is detachable); said case includes a projection (66) with threads (68) and said nipple has corresponding threads (69) arranged to engage with said threads of said projection; said closure means comprise a cap removably attachable to said case; attachment means (friction fit of nipple 26 and cavity 52) for removably attaching said cap to said case, said attachment means comprising an annular rib (top portion 74) formed on an outer surface of said nipple and an annular groove (52) formed on said cap and receivable of said annular rib of said nipple when said cap is attached to said case; said cap includes an interior cylindrical wall (52) arranged to surround said nipple, said annular groove being formed on an inner surface of said cylindrical wall; and said closure means comprise an engagement pad (inside surface of cavity 52) arranged to

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contact said tip and cover said aperture in said nipple when said closure means is attached to said case and thereby prevent flow of fluid from said reservoir through said aperture when said closure means is attached to said case (See column 6, lines 13-17).

Regarding claims 23-25, Clements et al. discloses said filling means are constructed to provide a one-way flow (See column 3, lines 40-43) of contact lens solution from said reservoir to said compartments and thereby prevent flow of contact lens solution from said compartments into said reservoir; said case further comprises a valve (aperture holding the air valve 170) arranged to allow inflow of air into said reservoir and prevent outflow of contact lens solution from said reservoir; and said valve comprises a valve member (air valve 170) attached to said case, said case including an intake aperture (aperture through air valve 170), said valve member being arranged to cover said aperture upon application of pressure from said reservoir and separate from said aperture in the absence of pressure being applied from said reservoir (See column 8, lines 22-30).

Regarding claims 26-30, As described above Clements et al. discloses a storage device for storing contact lenses and contact lens solution, comprising a case defining a reservoir for contact lens solution and a pair of contact lens retaining compartments for retaining contact lenses, said case including a flow nipple having a tip with an aperture formed therein, said nipple being removably attached to said case said nipple being detachable from said case to enable refilling of said reservoir; closure means removably attachable to said case for covering said aperture in said nipple; said case includes a projection with threads and said nipple has corresponding threads arranged to engage

with said threads of said projection; said closure means comprise a cap removably attachable to said case, further comprising attachment means for removably attaching said cap to said case, said attachment means comprising an annular rib formed on an outer surface of said nipple and an annular groove formed on said cap and receivable of said annular rib of said nipple when said cap is attached to said case; said cap includes an interior cylindrical wall arranged to surround said nipple, said annular groove being formed on an inner surface of said cylindrical wall; said closure means comprise an engagement pad arranged to contact said tip and cover said aperture in said nipple when said closure means is attached to said case and thereby prevent flow of fluid from said reservoir through said aperture when said closure means is attached to said case.

Regarding claims 32 and 33, Clements et al. discloses a storage device for storing contact lenses and contact lens solution, comprising a case defining a reservoir for contact lens solution and a pair of contact lens retaining compartments for retaining contact lenses, said case including a support portion on which said compartments are defined, said support portion including a cavity communicating with each of said compartments and having an aperture (at 158 and 160 – See Fig. 8 embodiment) formed at a bottom thereof, a channel (150) communicating with each of said apertures and a pressure application zone (sides of 152), covers (834 and 386) movably connected to said support portion to selectively cover said compartments, a part of each of said covers being arranged in a respective one of said cavities and being movable to block said channel when in a closed position and allow flow through said cavity when in an open position, and a pair of valves (166) each associated with a respective one of

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said compartments, each of said valves having an inlet opening situated in said reservoir and an outlet opening, each of said channels being arranged in the outlet opening of a respective one of said valves; and said support portion includes a mounting bracket (hinge) alongside each of said compartments for mounting said covers, each of said mounting brackets including a pair of projections, said cavities being arranged between said projections.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Clements et al. (US 4,905,819) in view of Amend (US 5,375,699). As described above, Clements et al. discloses the claimed invention except for the mirror. However, Amend teaches a contact lens case comprising a mirror (13) on the interior surface of the lid for the

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purpose of easier insertion and removal of contact lenses by the user. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the device of Clements et al. with the mirror on a portion of the interior surface of the lid as taught by Amend in order to allow the user to view their reflection to make it easier to insert a contact lens.

7. Claims 22 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clements et al. (US 4,905,819). Clements et al. discloses said stream generating means further comprises a pressure application zone (pressure is applied to sides 62 of the bottle) formed on said case and arranged to cause an increase in pressure in said reservoir and outflow of contact lens solution from said reservoir when said aperture in said nipple is uncovered. Clements et al. discloses the claimed invention except for the specific thickness of the case at the pressure application zone. Official Notice is taken, that it is old and conventional to make the pressure application zone on a squeeze bottle to have a reduced thickness in comparison to the surrounding portion of the bottle. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made in view of the Official Notice to have provided the pressure application zone of Clements et al. with a reduced thickness in order to make it easier to apply pressure to the case.

***Allowable Subject Matter***

8. Claims 5, 9-11, 13 and 34-37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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**Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gregory (US 4,574,944), Haggin (US 2004/0173474), Church et al. (US 2004/0251146), Vanden Dries et al. (US 6,289,906) and Amend (US 5,381,889).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Reynolds whose telephone number is (571)272-9959. The examiner can normally be reached on Monday-Friday 9:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571)272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SR

4/17/07

  
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